

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

BOBBY KYLES,)	
)	
Plaintiff,)	
)	
v.)	No. 2:18-cv-00144-WTL-MJD
)	
D. BROWN,)	
COBB,)	
ZIMMERMAN,)	
YARBER,)	
)	
Defendants.)	

Entry Screening Complaint and Directing Further Proceedings

Plaintiff Bobby Kyles, an inmate at the Wabash Valley Correctional Facility, brings this action pursuant to 42 U.S.C. § 1983 alleging that the defendants have violated his due process rights.

I. Screening Standard

Because the plaintiff is a “prisoner” as defined by 28 U.S.C. § 1915(h), this Court has an obligation under 28 U.S.C. § 1915A(b) to screen his complaint before service on the defendants. Pursuant to 28 U.S.C. § 1915A(b), the Court must dismiss the complaint if it is frivolous or malicious, fails to state a claim for relief, or seeks monetary relief against a defendant who is immune from such relief.

To state a cognizable claim, the plaintiff must provide a “short and plain statement of the claim showing that [he] is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2). It is not necessary for the plaintiff to plead specific facts, and his statement need only “give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S.

544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)); see *Christopher v. Buss*, 384 F.3d 879, 881 (7th Cir. 2004). However, a complaint that offers “labels and conclusions” or “formulaic recitation of the elements of a cause of action will not do.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Twombly*, 550 U.S. at 555). To state a claim, a complaint must contain sufficient factual matter, accepted as true, “that is plausible on its face.” *Id.* “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* The complaint allegations “must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555; *Christopher*, 384 F.3d at 881.

Pro se complaints such as that filed by the plaintiff are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

II. Discussion

Kyles alleges that C.O. Cobb wrote him up for possession of a controlled substance, but that the substance was just paper. C.O. Cobb said it was synthetic marijuana. He also alleges that defendant Zimmerman would not test the paper to show that it is just paper and not synthetic marijuana. As relief, he requests to be returned to his job and \$1000 for cruel and unusual punishment.

Applying the screening standard to the factual allegations in the complaint, the complaint must be **dismissed**. In *Sandin v. Conner*, 115 S. Ct. 2293, 2300 (1995), the Supreme Court explained that due process protections—“will be generally limited to freedom from restraint which, . . . imposes atypical and significant hardships on the inmate in relation to the ordinary incidents of prison life.” *Id.* “In the absence of such ‘atypical and significant’ deprivations, the

procedural protections of the Due Process Clause will not be triggered.” *Lekas v. Briley*, 405 F.3d 602, 608 (7th Cir. 2005). Here, Kyles has alleged that he lost his prison job and was subjected to “cruel and unusual punishment.” These allegations are not sufficient to allow the Court to draw an inference that Kyles’s due process rights have been violated. First, an inmate does not have a liberty or property interest in any prison job, *Wallace v. Robinson*, 940 F.2d 243, 247 (7th Cir. 1991), and therefore due process protections do not apply to the loss of a prison job. In addition, Kyles’s broad allegation that he was subjected to “cruel and unusual punishment” is understood to be an Eighth Amendment claim, but his conclusory statement is not enough to raise a right to relief on this claim above a speculative level. In other words, without any description of the conditions Kyles’s refers to, the Court cannot determine if he has stated a valid claim for relief.

III. Conclusion

The dismissal of the complaint will not in this instance lead to the dismissal of the action at present. Instead, the plaintiff shall have **through July 5, 2018**, in which **to file an amended complaint**.

In filing an amended complaint, the plaintiff shall conform to the following guidelines: (a) the amended complaint shall comply with the requirement of Rule 8(a)(2) of the Federal Rules of Civil Procedure that pleadings contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .,” which is sufficient to provide the defendant with “fair notice” of the claim and its basis. *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam); (b) the amended complaint must include a demand for the relief sought; and (c) the amended complaint must identify what legal injury they claim to have suffered and what persons are responsible for each such legal injury. The plaintiff must state his claims “in numbered

paragraphs, each limited as far as practicable to a single set of circumstances.” Fed. R. Civ. P. 10(b). The plaintiff is further notified that “[u]nrelated claims against different defendants belong in different suits.” *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007).

In organizing his complaint, the plaintiff may benefit from utilizing the Court’s complaint form. The **clerk is directed** to include a copy of the prisoner civil rights complaint form along with the plaintiff’s copy of this Entry.

Any amended complaint should have the proper case number, 2:18-cv-144-WTL-MJD and the words “Amended Complaint” on the first page. If an amended complaint is filed as directed above, it will be screened. If no amended complaint is filed, this action will be dismissed for the reasons set forth above.

IT IS SO ORDERED.

Date: 6/6/18

Distribution:

BOBBY KYLES
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WABASH VALLEY CORRECTIONAL FACILITY - Inmate Mail/Parcels
Electronic Service Participant – Court Only



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana